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February 26, 2009

Via CM/ECF

Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Re: Citation of Supplemental Authority
***North County Community Alliance v. Kempthorne, et al.*, No. 07-36048**
Scheduled for oral argument March 11, 2009

Dear Clerk of Court:

Pursuant to Federal Rule of Appellate Procedure 28(j) and Circuit Rule 28-6, Appellant North County Community Alliance wishes to bring to the Court's attention the supplemental authority of *Carcieri v. Salazar*, No. 07-526, 555 U.S. --- (Feb. 24, 2009), decided by the Supreme Court this past Tuesday.

Carcieri addresses the Secretary of the Interior's power to take lands into trust for Indian tribes under the Indian Reorganization Act (IRA), *codified at* 25 U.S.C. §§ 461 *et seq.* The Supreme Court held that the Secretary's power was limited "to taking land into trust for the purpose of providing land to members of a tribe that was under federal jurisdiction when the IRA was enacted in June 1934." *Carcieri*, slip op. at 2.

In the present case, Appellants are challenging the National Indian Gaming Commission's failure to determine whether the location of the Nooksack Indian Tribe's Northwood Crossing Casino qualifies as "Indian lands" under the Indian Gaming Regulatory Act, *codified at* 25 U.S.C. §§ 2701 *et seq.* See Appellant's Open. Br. at 11-25. In turn, this determination depends in part on whether the subject property was property taken into trust in the first place, a point that Appellant also disputes. *Id.* at 13, 20-21. The Nooksack Indian Tribe was not recognized by the federal government until 1973, well after the enactment of the IRA in 1934.

Very truly yours,

GROEN STEPHENS & KLINGE LLP

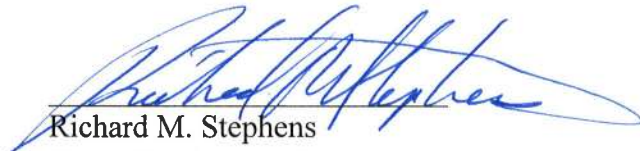


Richard M. Stephens

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2009, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: February 26, 2009



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